

The Department's regulation at 86 Ill. Adm. Code 130.1405 describes the requirements for Certificates of Resale. (This is a GIL.)

October 24, 2007

Dear Xxxxx:

This letter is in response to your letter dated April 30, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter is a request for the letter of opinion on the following subject matter: A Company purchases human tissues and/or organs from the donors' banks. They process cells and grow cultures from the tissues and sell them to pharmaceutical companies. Are there any sales tax implications related to sale of these cultures?

We would appreciate a prompt response, as the company just beginning it's [sic] operations, and we are trying to ensure that the system is properly set up for tax implications, if any.

Thank you for your attention in this matter.

DEPARTMENT'S RESPONSE

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 86 Ill. Adm. Code 150.101.

If a retailer makes a retail sale of tangible personal property in Illinois and delivers it in this State, the retailer will incur Retailers' Occupation Tax liability on that sale and must collect Use Tax from the purchaser unless the sale is exempt from tax. It is not clear from your letter if the purchaser

is buying the tissues or organs for use or resale. We refer you to the Department's regulation at 86 Ill. Adm. Code 130.1405, which describes the requirements for Certificates of Resale. In order for a sale for resale to qualify for exemption from Retailers' Occupation Tax, the seller must keep on file a valid Certificate of Resale as set forth in the regulation. Acceptance of a valid Certificate of Resale relieves the seller of liability with respect to the purchaser's use of the property purchased.

A blanket Certificate of Resale can be used to document a sale for resale as long as the requirements for a valid Certificate of Resale are met. A seller may accept a blanket Certificate of Resale from a purchaser if all of a particular customer's purchases are made for resale. The information on a blanket Certificate of Resale should be updated no less than every three years.

If a purchaser knows that a certain percentage of all purchases from a given seller will be made for purposes of resale, a seller may accept a percentage Certificate of Resale specifying that a certain portion of the sales made by such seller to such purchaser will be made for purposes of resale.

You may also want to review some of our letter rulings regarding sales for resale that are located on our website, such as for example ST 07-0028-GIL. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
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